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IN THE

Supreme Court of the United States

..... TERM

No. 718

SEAFARERS INTERNATIONAL UNION OF NORTH AMERICA ATLANTIC, GULF, LAKES AND INLAND WATER DISTRICT, PUERTO RICO DIVISION, AFL-CIO,

Petitioner,

vs.

PUERTO RICO LABOR RELATIONS BOARD,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE COMMONWEALTH OF PUERTO RICO

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The SEAFARERS INTERNATIONAL UNION OF NORTH AMERICA, ATLANTIC, GULF, LAKES AND INLAND WATER DISTRICT, PUERTO RICO DIVISION, AFL-CIO, prays that a writ of certiorari be issued to review the judgment of the Supreme Court of the Commonwealth of Puerto Rico entered in the above case on December 21, 1962 and notified to Petitioner on December 26, 1962.

Opinion Below

The judgment of the Honorable Supreme Court of the Commonwealth of Puerto Rico was made and entered on December 21, 1962 and notified to Petitioner on December

26, 1962. The Court delivered no written opinion, discussion of the case, findings of facts nor conclusions of law in connection with the entry of the judgment in question in Case Number JRT 62-15. Copy of the above referred to final judgment is appended to this Petition in the Appendix at page 4a.

Jurisdiction

The judgment of the Supreme Court of the Commonwealth of Puerto Rico was made and entered on December 21, 1962, and notified on December 26, 1962, and copy thereof is appended to this Petition.

Jurisdiction of this Court is invoked under 28 U.S.C. Section 1258 and Rule 23 of this Court, to review the final denial of the Writ of Review filed before the Honorable Supreme Court of the Commonwealth of Puerto Rico, and this Honorable Court should exercise such jurisdiction in this case.

Questions Presented

The Questions presented in the Petition at bar, erroneously resolved by the Honorable Supreme Court of the Commonwealth of Puerto Rico, in a summary denial of the Writ for Review filed therein in civil case number 62-15 before said Court are the following:

1. Is Petitioner entitled to a review by the Supreme Court of the Commonwealth of Puerto Rico of a Decision and Order of Elections issued by the Puerto Rican Labor Relations Board in a case involving a Puerto Rican, wholly government owned authority, dedicated to the operation of a public transportation system when it is alleged that such Decision and Order of Election in Case Number P-1946, was issued in violation of the constitutional right of Petitioner to a due process of law, in that said Decision and

Order of Election was issued without a *scintilla* of evidence to sustain it.

2. If Petitioner has a right to such judicial review on the above grounds, has such a right been given to Petitioner by the Honorable Supreme Court of the Commonwealth of Puerto Rico in rendering a judgment summarily denying its Petition for Review without a hearing and without an examination of the record and or transcript of the hearing before the administrative agency involved, the Puerto Rico Labor Relations Board, when only an examination of said record and/or transcript of the hearing would disclose that the findings of the Puerto Rico Labor Relations Board in its Decision and Order of Election in Case Number P-1946, D-304 is wholly unsustained by the record before said agency.

Statutes, Federal Rules and Regulations Involved

The pertinent portions of the Puerto Rico Labor Relations Act, Law Number 130, May 8, 1945; Law Number 5, of March, 1946, Section 9(2)(b), 29 L.P.R.A. Section 61 *et seq.*; the Civil Rights Act, 42 U.S.C. Section 1983; Rule 23 of the Rules of the Supreme Court of the United States, are set forth in the Appendix at pages 1a-2a.

Also involved are the constitutional provisions which guarantee the right to a due process of law, embodied in the Fifth and Fourteenth Amendments of the Constitution of the United States, and in the Bill of Rights of the Constitution of the Commonwealth of Puerto Rico, 1 L.P.R.A., Article 2, Section 7; and the Federal Relations Act, 64 Stat. 319, are set forth in the Appendix at pages 1a-3a.

Statement of the Case

1. Petitioner herein is a labor organization which after elections held under the Puerto Rico Labor Relations Act, 29 L.P.R.A., Section 61 *et seq.*, was duly certified on June

13, 1962 as exclusive representative of about 1,060 operation and maintenance employees in a unit which had been found appropriate at the Employer's business, the Metropolitan Bus Authority. The Metropolitan Bus Authority is a Puerto Rican government owned business operating a public transportation system affecting commerce in the Metropolitan Area in the Commonwealth of Puerto Rico.

2. On October 10, 1962, an entity which called itself "Unión de Trabajadores de la Autoridad Metropolitana de Autobuses", (Union of Workers of the Metropolitan Bus Authority)[1] filed a Petition for Representation in the same unit in which Petitioner herein had been certified on June 13, 1962. Said Petition was filed under the Case Number P-1946 before the Puerto Rico Labor Relations Board.

3. A hearing was held on November 5, 12 and 13, 1962. On December 11, 1962, the Puerto Rico Labor Relations Board issued a decision ordering elections on the basis of extraordinary circumstances, which in the opinion of the Board justified an exception to the one-year certification rule. This decision was issued under the Case Number P-1946, D-304.

Said Decision and Order of Election was notified to Petitioner herein on Thursday, December 13, 1962.

4. On Monday, December 17, 1962, Petitioner herein filed a Petition for Review before the Honorable Supreme Court of the Commonwealth of Puerto Rico in Case Number JRT—62-15, alleging there was not a *scintilla* of evidence in the record sustaining the administrative decision which was based on supposedly extraordinary circumstances, and that such decision was arbitrary and frivolous and had been issued in violation of the constitutional right

[1] According to the record of the case, the Union of Workers of the Metropolitan Bus Authority claimed that it had been founded on *October 2, 1962.*

to a due process of law to which Petitioner herein was entitled.

The Petition for Review before the Supreme Court of the Commonwealth of Puerto Rico further prayed that, pending its resolution on the merits, an order be issued instructing the State Board to abstain from holding the elections ordered in its Decision Number 304.

5. On the same date a similar Petition was filed before the Superior Court of Puerto Rico, San Juan Section in Civil Case Number 62-8644, praying that prior a hearing, an Injunction be issued against the Puerto Rico Labor Relations Board ordering said agency to abstain from holding the above referred to elections.

6. Notwithstanding the fact that on December 17, 1962, the Puerto Rico Labor Relations Board was duly notified of the above mentioned writs of Injunction and Review, the State Board on the same day proceeded to set the date of the elections for December 27, 1962, at 7:00 P.M.

On December 18, 1962, both Courts were notified of said administrative action.

7. On December 22, 1962, Petitioner was notified of a Resolution issued by the Honorable Superior Court of Puerto Rico, without a hearing, staying all proceedings in civil case number 62-8644, pending decision by the Honorable Supreme Court of the Commonwealth of Puerto Rico in Case Number 62-15, on the grounds that the jurisdiction was of the Supreme Court of Puerto Rico under the provisions of Law Number 130, 1945, 29 L.P.R.A. Section 61, *et seq.*

8. Copies of the proceedings before the Superior Court of the Commonwealth of Puerto Rico are set forth in the Appendix at pages 6a-36a.

9. On Friday, December 21, 1962, at about 5:00 P.M. and after making sure that no notice had been received regarding any judicial action in the above referred cases, and in an effort to protect its interests and its constitutional rights, Petitioner herein filed a Petition before the United States District Court for the District of Puerto Rico under the provisions of 42 U.S.C. Section 1981-94 and 28 U.S.C. Section 1331(a) requesting an adequate remedy in view of the inaction of the State Courts.

10. On December 26, 1962, the Honorable Supreme Court of the Commonwealth of Puerto Rico notified its judgment in Case number 62-15, dated December 21, 1962, denying the Writ for Review, without a hearing, without findings of facts, without an opinion and without any prior examination of the record nor of the transcript of the hearing in Case P-1946, D-304, before the Puerto Rico Labor Relations Board, and object of the Writ for Review before said Court.

11. Copy of the proceedings before the Supreme Court of the Commonwealth of Puerto Rico in Civil Case Number 62-15 is set forth in the Appendix at pages 37a-53a.

12. On the same date, December 26, 1962, the Honorable United States District Court for the District of Puerto Rico denied without a hearing, Petitioner's request for an Injunction in Case Number 446-62, on the basis of the provisions of the Norris La Guardia Act, 29 U.S.C. Sections 101 *et seq.* 113(b)(c), and on the further ground that Petitioner had had its day in court, and had not been deprived of its right to a due process of law. Copy of the proceedings before the Federal Court is set forth in the Appendix at pages 54a-64a.

13. On the same date, December 26, 1962, Petitioner herein filed a Notice of Appeal of the judgment issued by

the United States District Court for Puerto Rico to the Circuit Court of Appeals for the First Circuit as Petitioner believes that it is patently erroneous to apply the Norris La Guardia Act to the factual situation posed in the Petition filed before the District Court in Case number 446-62, and that Petitioner never had the day in court, to which as a matter of constitutional right, it was entitled.

Reasons for Granting This Writ

It is clear, as a matter of law, that under the Puerto Rico Labor Relations Act, 29 L.P.R.A. Section 61 *et seq.*,[2] the Puerto Rico Labor Relations Board has not been given a blanket authority to issue arbitrary and frivolous orders in proceedings of representation, and at the same time allow that the aggrieved party be denied judicial review of such arbitrary orders.

The case of *Leedom v. Kyne*, decided by this Honorable Court, 358 U.S. 184, cannot be considered to be limited to its specific facts, and the meaning of the decision certainly extends and should be expressly extended, to cover cases in which a showing of violation of the due process of law is made. As a matter of constitutional due process it should be immaterial whether the issue is raised under the National Labor Relations Act or as in this case, under an equivalent State Act, most specially if the business involved affects commerce as is the case of a transportation enterprise. Otherwise, any labor organization or employer subject to the jurisdiction of the Puerto Rico Labor Relations Board would be under permanent danger of having its constitutional rights violated by arbitrary administrative actions on the part of the Puerto Rico Labor Relations Board, without recourse to any court.

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[2] The Puerto Rico Labor Relations Act is very similar to the Wagner Act and they both are alike in their respective provisions of matters concerning representation, 29 L.P.R.A. Section 66, National Labor Relations Act of 1935, 29 U.S.C. Section 151 *et seq.*

Has the Petitioner had its day in Court? The answer must be in the negative. The Supreme Court of the Commonwealth of Puerto Rico, without a hearing, without any findings of facts, without an opinion, and without even having examined the record of the case before the Board, nor the transcript of the hearing, denied the review sought. Under the circumstances, it must be assumed to all legal purposes, that the Honorable Supreme Court of the Commonwealth of Puerto Rico denied review as a matter of law, and without any consideration of the merits of the case.

It is the contention of Petitioner that in view of the serious allegations posed in said Petition for Review, to the effect that the Petitioners' constitutional right to a due process of law, as a result of the issuance of an arbitrary order, without a *scintilla* of evidence to sustain such order, and furthermore, in the light of the threat of imminent and irreparable injury to be caused to Petitioner because of the date of the election having been set for December 27, 1962, a day in court should have been given whereby Petitioner would have had the opportunity to prove the factual basis for its contention that the Puerto Rico Labor Relations Board had acted in total disregard of Petitioners' constitutional right to a due process of law. This would have been established by a perfunctory analysis of the record and the transcript of the proceedings before the Puerto Rico Labor Relations Board in Case P-1946, D-304.

The circumstances referred herein certainly required an examination of the record of the administrative case by the Supreme Court of Puerto Rico before denying the Petition for Review. Otherwise, whatever judicial action was taken in the nature of a summary dismissal, as happened in this case, amounts to a total denial to an aggrieved party of its Constitutional right to a day in court.

In the light of the above, not only the right to a due process of law at the administrative level has been denied to Petitioner but also its right to judicial review of an ostensibly arbitrary and frivolous order by the Puerto Rico Labor Relations Board, issued, it is reiterated, without a *scintilla* of evidence to sustain it.

CONCLUSION

Petitioner respectfully submits that this Honorable Supreme Court of the United States should exercise jurisdiction in the instant petition to resolve:

1. That a Decision and Order of Elections issued by the Puerto Rico Labor Relations Board, involving a Commonwealth Government wholly owned Authority, operating a public transportation business affecting commerce, allegedly in violation of the constitutional right to a due process of law is reviewable by the Supreme Court of Puerto Rico as a matter of law.

2. That the summary denial of the Petition for Review, timely filed, without a hearing, or findings of fact or of law, opinion, and without examination of the transcript and the entire record before the Puerto Rico Labor Relations Board in case number P-1946, D-304, under the circumstances of this case, constitutes a violation of the minimum standards of due process of law, in that such judicial review to which Petitioner herein is entitled, has in fact been denied.

Prayer

WHEREFORE it is respectfully prayed that the writ of certiorari herein requested be issued, and that the judgment of the Supreme Court of the Commonwealth of Puerto Rico in Case JRT 62-13 be reversed.

It is further prayed that pending the final decision of the matter subject of this Writ, the Puerto Rico Labor Relations Board be ordered to abstain from issuing any certification in relation to the elections held on December 27, 1962 in Case P-1946, D-304.

Respectfully submitted,

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